
AGENDA ITEM SUMMARY**SPRINGFIELD
CITY COUNCIL**

Meeting Date: 7/18/2016
Meeting Type: Regular Meeting
Staff Contact/Dept.: Michael Harman
Staff Phone No: 726-2347
Estimated Time: Consent Calendar
Council Goals: Provide Financially
Responsible and
Innovative Government
Services

ITEM TITLE: ANIMAL SHELTER CONTRACT WITH GREENHILL

ACTION

REQUESTED: Approve and authorize the City Manager to sign a contract for animal shelter services with Greenhill Humane Society, as well as the sole source justification.

ISSUE

STATEMENT: The Police Department has contracted with the Greenhill Humane Society for animal shelter services since 2012. The working relationship has been positive, and Greenhill remains the only viable service provider in the area. The Department recommends authorizing the attached contract as a sole source agreement.

ATTACHMENTS:

1. Greenhill Humane Society Contract
 2. Sole Source Justification
-

**DISCUSSION/
FINANCIAL
IMPACT:**

Prior to 2012, the Police Department contracted with the Lane County Animal Shelter (LCAS) for animal shelter services at a cost of approximately \$47,000 per year. Each year since the contract was awarded to Greenhill Humane Society, after a joint RFP process with the City of Eugene and Lane County, Springfield's annual costs have been less than they were with LCAS. In FY16, the Greenhill Shelter contract cost was \$41,000.

The proposed contract for shelter services with Greenhill is for a three year term, with FY17 costs at \$42,025, FY18 at \$42,446 and FY19 at \$42,870. First year costs are increasing mainly because of increases in the State's minimum wage rates, and all three years of the contract remain below historical costs for LCAS. This contract provides the option to extend the agreement for two additional one-year periods, with costs to be negotiated at the time of the extensions.

The working relationship between the Department and Greenhill continues to be very positive. Greenhill is also the only viable, local resource to provide the specific types of animal shelter services required by the Department, as noted in Attachment 2 Sole Source Justification.

Staff recommends approving and authorizing the City Manager to sign the contract for animal shelter services with Greenhill Humane Society, as well as the sole source justification.

CITY OF SPRINGFIELD
INDEPENDENT CONTRACTOR AGREEMENT
(Type 4: For Personal Services Contracts Not Requiring Professional Liability Insurance)
Contract # 1684

Dated: July 1, 2016

Parties: City of Springfield ("CITY")
A municipal corporation in the State of Oregon
225 Fifth Street
Springfield, Oregon 97477

and

Greenhill Humane Society and ("Independent Contractor")
Society for the Prevention of Cruelty
to Animals dba 1st Avenue Shelter

Additional Independent Contractor Information:

- A. Type of Entity: ☐ Sole Proprietorship ☐ Partners ☐ Limited Liability Company ☒ Corporation
B. Address: 88530 Greenhill Road, Eugene, OR 97402
C. Telephone: 541.689.1503
D. Fax No: 541.689.5261
E. SSN or Fed. I.D. No: On file
F. Professional License(s) No: n/a
G. Oregon Agency Issuing License: n/a
H. Foreign Contractor ☐ Yes ☒ No
(Foreign means not domiciled in or registered to do business in Oregon) See Exhibit B (11).

City Account Number(s) To Be Charged (Include Percentages):

Account Number	Percentage
100-36270-611008	100%

In consideration of the mutual covenants contained herein, the parties agree to the following terms, provisions and conditions:

- 1. Payment by CITY.** CITY shall pay Independent Contractor according to the sum and schedule described in Attachment "1" attached hereto and incorporated herein by this reference and in an amount not to exceed \$42,025 for Fiscal Year 2017, \$42,445.25 for Fiscal Year 2018 and \$42,869.70 for Fiscal Year 2019.
- 2. Services to be Performed by Independent Contractor.** Independent Contractor shall perform the services described in Attachment 1.
- 3. Invoice.** Invoice to be sent to: Accounts Payable - City of Springfield, 225 5th Street, Springfield, OR 97477 or email to ap@springfield-or.gov. Invoice will be paid on net 30 day terms upon City acceptance of goods delivered, work or services performed. The invoice must reference this contract #1684 and approval code #363.

4. **Term.** This Agreement is effective as of the date first set forth above and shall continue until June 30, 2019, unless earlier terminated in accordance with the provisions of this Agreement or by mutual consent of the parties. The Agreement may be amended annually, to extend the term stated herein, for not more than two (2) successive one-year periods, upon mutual agreement of the parties. In negotiating any extension CITY shall consider the requirements of SMC Section 2.708(3) and each extension shall not be effective until reviewed and approved by the Springfield City Council.
5. **Sourcing.** Sole Source as specified in Section 2.703(2) of the Springfield Municipal Code.
6. **Independent Contractor Status.** By its execution of this Agreement, Independent Contractor certifies its status as an "Independent Contractor" as that term is used under the laws of the State of Oregon, and that all performance of any labor or services required to be performed by Independent Contractor under the terms of this Agreement shall be performed in accordance with the standards set forth in ORS 670.600, and as more specifically set forth on Exhibit "A" attached hereto and incorporated herein by this reference.
7. **First Point of Contact.**
Independent Contractor: Cary Lieberman, PH: 541.689.1503 ext 113, director@green-hill.org
CITY: Mike Harman, PH: 541.726.2347, mharman@springfield-or.gov
8. **Conformance with Oregon Public Contracts Law (ORS Chapter 279).** Independent Contractor shall comply with all applicable provisions of Oregon law for public contracts, including, but not limited to ORS 279B.110, ORS 279B.220, ORS 279B.225, ORS 279B.230 and ORS 279B.235 and as more fully set forth on Exhibits "A", "B" and "C" attached hereto and incorporated herein by this reference.
9. **Work Performed.** The work to be performed by Independent Contractor includes services generally performed by Independent Contractor in his/her/its usual line of business.
10. **Tax duties and Liabilities.** Independent Contractor shall be responsible for all federal, state and local taxes, if any, applicable to any payments received pursuant to this Agreement, including but not limited to income tax, payroll tax, social security and self-employment tax. CITY shall not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Independent Contractor.
11. **Reimbursement Of Expenses.** Independent Contractor shall not be entitled to reimbursement by CITY for any expenses incurred by Independent Contractor unless otherwise agreed in writing.
12. **Materials and Supplies.** Independent Contractor shall supply all materials and supplies needed to perform the services required unless otherwise agreed in writing.
13. **No Authority To Bind CITY.** Independent Contractor shall have no authority to enter into contracts on behalf of CITY, its officers, agents and employees. This Agreement shall not create a partnership or joint venture of any sort between the parties.
14. **Federal Employment Status.** In the event payment made pursuant to this Agreement is to be charged against federal funds, Independent Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Independent Contractor's normal charge for the type of services provided.
15. **Indemnification and Hold Harmless.** The Independent Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Independent Contractor, the City, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other cause whatsoever. The Independent Contractor shall

assume defense of, indemnify and save harmless the City, its officials, agents, and employees from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from activities in the performance of the Agreement, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Independent Contractor or any Subcontractor under the Agreement or any way arising out of the Agreement, irrespective of whether any act, omission or conduct of the Independent Contractor or Subcontractor is merely a condition rather than a cause of a claim, liability loss, damage or injury. The Independent Contractor shall not be liable for nor be required to defend or indemnify, the CITY relative to claims for damage or damages resulting solely from acts or omissions of the CITY, its officials, agents or employees. The absence of or inadequacy of the liability insurance required in section 16 shall not negate Independent Contractor's obligation in this paragraph.

16. Insurance.

16.1 General Insurance. The Independent Contractor shall maintain in force for the duration of this Agreement a Commercial General Liability insurance policy written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate for bodily injury or property damage. Automobile Liability (owned, non-owned and hired) insurance with limits not less than \$1,000,000 per occurrence shall be maintained. The City, its employees, officials and agents will be named as an Additional Insured where operations are being conducted related to this contract, on the General Liability policy as respects to work or services performed under this Agreement to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the Independent Contractor or the fault of the Independent Contractor's agents, representatives or subcontractors. This insurance will be primary over any insurance the City may carry on its own. If the City requires Professional Liability coverage, the City's Risk Manager must approve the terms, conditions and limits. Independent contractor understands that CITY is a public entity subject to the requirements of the Oregon Governmental Tort Claims Act, ORS 30.260 et seq. In the event that CITY'S financial obligations or liabilities are modified by any amendment to the liability limits imposed by the Oregon Governmental Tort Claims Act, Independent contractor agrees that the limits regarding liability insurance set forth in this Section 16 will be modified to conform to such limits. Independent contractor and CITY shall sign an amendment to this Agreement incorporating such modification.

16.2 Workers' Compensation. Independent Contractor shall provide and maintain workers' compensation coverage for its employees, officers, agents, or partners, as required by applicable workers' compensation laws. If Independent Contractor is exempt from coverage, a written statement signed by Independent Contractor so stating the reason for the exemption shall be provided to the City.

16.3 Evidence of Insurance Coverage. Evidence of the required insurance coverages issued by an insurance company satisfactory to the City shall be provided to the City by way of a City approved certificate of insurance before any work or services commence.

16.4 Notice of Cancellation or Material Change in Coverage. The certificate of insurance shall contain a requirement that the Insurance company notify the City 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30 day notice, the Independent Contractor shall provide written notice to the City Contract Manager within 2 calendar days after the Independent Contractor becomes aware that their coverage has been canceled or has been materially changed. The Independent Contractor shall either fax 541-726-3782 said notice or email it directly to Bob Duey (rduey@springfield-or.gov), Finance Director at the City. Regardless of what circumstances caused Independent Contractors insurance coverage to cease or be modified, it is the Independent Contractor's responsibility to notify the CITY. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract. _____ (**Independent Contractor initials**)

16.5 Equipment and Material. The Independent Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.

16.6 Exception or Waivers. Any exception or waiver of these requirements shall be subject to review and approval from the City's Risk Manager.

16.7 Subcontractors. The Independent Contractor shall require all subcontractors to provide and maintain General Liability, Auto Liability, Professional Liability (as applicable), and Workers' Compensation insurance with coverages equivalent to those required of the Independent Contractor in this contract. The Independent Contractor shall require certificates of insurance from all subcontractors.

- 17. Termination.** The performance of work under this Agreement may be terminated by CITY, in whole or in part:

17.1 By mutual written agreement of the parties at any time;

17.2 By either party if the other party is in breach of any material provision which continues for more than 30 days after a notice describing the breach has been given, unless, in the case of a breach which cannot be cured within the 30-day period, the breaching party immediately initiates and diligently prosecutes a plan of curative action that is acceptable to the non-breaching party. Notwithstanding the foregoing, termination for a recurring breach may be made if the breach is uncured within seven days after the second notice in any twelve-month period and immediately, without opportunity for cure, after the third or any subsequent notice of breach in any twelve-month period;

17.3 By either party, at any time and for any reason, by giving 90 days written notice to the other party; or

17.4 By CITY whenever for any reason CITY shall determine that such termination is in the best interest of CITY. Any such termination shall be effected by delivery to the Independent Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination is effective. Upon delivery to the Independent Contractor of a Notice of Termination under this paragraph, the Independent Contractor and CITY shall, by agreement, make an appropriate written modification to this Agreement governing completion of portions of the Independent Contractor's work and payment therefore by CITY.

In the event of a termination, CITY shall pay Independent Contractor for the services performed to the date of termination. Any claim for relief either party may have as a result of a breach by the other shall survive termination of the Agreement

- 18. Rights in Data.** All original written material, including programs, card decks, tapes, listings, and other documentation originated and prepared for CITY pursuant to this Agreement, shall become exclusively the property of CITY. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Independent Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Independent Contractor's possession, independently developed by Independent Contractor outside the scope of this Agreement, or rightfully obtained by Independent Contractor from third parties, shall belong Independent Contractor. This agreement shall not preclude Independent Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered to CITY pursuant to this Agreement. Independent Contractor shall not, however, use any written materials developed under this Agreement in developing materials for others, except as provided in this section.
- 19. Confidentiality.** During the course of performance hereunder, Independent Contractor or its agent, employees, or contractors, may receive confidential information. Independent Contractor agrees to use its best efforts to maintain the confidentiality of such information and to inform each agent and employee performing services of the confidentiality obligation that pertains to such information.
- 20. Assignment/Subcontract.** Independent Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Agreement, in whole or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

21. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
22. **Compliance with All Government Regulations.** Independent Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Independent Contractor.
23. **Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of CITY to enforce any provision of this Agreement, Independent Contractor shall pay such additional sums as the Court may adjudge reasonable for attorney fees plus all costs and disbursements at trial and on any appeal.
24. **Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CITY may terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.
25. **Assistance Regarding Patent and Copyright Infringement.** In the event of any claim or suit against CITY on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Independent Contractor shall defend CITY against any such suit or claim and hold CITY harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.
26. **Severability.** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
27. **Access to Records.** CITY and its duly authorized representatives shall have access to books, documents, papers and records of Independent Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.
28. **Waiver.** Failure of CITY to enforce any provision of this Agreement shall not constitute a waiver or relinquishment by CITY of the right to such performance in the future nor of the right to enforce any other provision of this Agreement.
29. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of CITY. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.
30. **Nondiscrimination.** Independent Contractor shall comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.
31. **Dual Payment.** Independent Contractor shall not be compensated for work performed under this contract from any CITY agency other than the agency which is a party to this contract.
32. **Choice of Law, Forum, Construction of Agreement.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, apart from choice of law provisions. The parties agree that the Circuit Court for the County of Lane, State of Oregon, or the Federal District Court of the State of Oregon (Eugene) is the sole and proper forum for resolving any disputes involving this Agreement, any breach of this Agreement, or relating to its subject matter. The Parties agree to submit themselves to the jurisdiction of such courts without challenge to the jurisdiction of these courts. This Agreement shall not be construed more favorably to CITY

due to the preparation of this Agreement by CITY. The headings and subheadings in this Agreement are for convenience, do not form a part of this Agreement, and shall not be used in construing this Agreement.

- 33. Entire Agreement.** This Agreement signed by both parties is the parties' final and entire Agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents and representatives. There are no representations, promises, terms, conditions or obligations other than those contained herein.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective the date first set forth above.

CITY OF SPRINGFIELD:

By: _____
Name: _____
Title: _____
Date: _____

INDEPENDENT CONTRACTOR

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"

CITY OF SPRINGFIELD INDEPENDENT CONTRACTOR AGREEMENT

Independent Contractor Status

All performance of any labor or services required to be performed by Independent Contractor shall be performed in accordance with the standards set forth in ORS 670.600 (2005), and as follows:

A person is customarily engaged in an independently established business if any three of the following five requirements are met:

1. The person maintains a business location:
 - a. That is separate from the business or work location of the person for whom the services are provided; or,
 - b. That is in a portion of the person's residence and that portion is used primarily for the business.
2. The person bears the risk of loss related to the business or the provision of services as shown by factors such as:
 - a. The person enters into fixed-price contracts;
 - b. The person is required to correct defective work;
 - c. The person warrants the services provided; or,
 - d. The person negotiates indemnification agreements or purchases liability insurance, performance bonds or errors and omissions insurance.
3. The person provides contracted services for two or more different persons within a 12-month period, or the person routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
4. The person makes a significant investment in the business, through means such as:
 - a. Purchasing tools or equipment necessary to provide the services;
 - b. Paying for the premises or facilities where the services are provided; or
 - c. Paying for licenses, certificates or specialized training required to provide the services.
5. The person has the authority to hire other persons to provide or to assist in providing the services and has the authority to fire those persons.

EXHIBIT “B”

City of Springfield Public Contracts Conformance with Oregon Public Contractors Laws

Pursuant to Oregon law, every public contract shall contain the following conditions:

- 1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279B.220(1)
- 2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279B.220(2).
- 3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279B.220(3).
- 4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279B.220(4).
- 5) If the agreement is for lawn and landscape maintenance, it shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective. ORS 279B.225.
- 6) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279B.230.
- 7) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
 - a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or
 - b) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.235(1)-(2).

- 8) If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279B.235(3).
- 9) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. Employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number hours per day and days per week that the employees may be required to work. ORS 279B.235(5).

If this agreement is for a public improvement, the contract shall contain the following conditions:

- 10) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279C.505(1)(a).
- 11) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279C.505(1)(b).
- 12) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279C.505(1)(c).
- 13) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279C.505(1)(d).
- 14) The contractor shall demonstrate that an employee drug testing program is in place. ORS 279C.505(2).

- 15) If the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or subcontractor by any person in connection with the public improvement contract as the claim becomes due, the proper officer or officers representing the state or a county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing labor or services and charge the amount of the payment against the funds due or to become due the contract by reason of the contract. If the contractor or first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and is subject to a good faith dispute as defined in ORS 279C.580. If the contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. ORS 279C.515.
- 16) The payment of a claim does not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims. ORS 279C.515(4).
- 17) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279C.100, the employee shall be paid at least time and a half pay:
 - a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or,
 - b) For all overtime in excess of 10 hours in anyone day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and,
 - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020. ORS 279C.520(1).

An employer shall give notice in writing to employees who work on a public contract either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.520(2).
- 18) If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279C.520(3).
- 19) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279C.520(5)
- 20) Solicitation documents for a public improvement contract shall make specific reference to federal, state and local agencies that have enacted ordinances, rules or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A solicitation document must also make special reference to known conditions at the construction site that may require the successful bidder to comply with the ordinances, rules or regulations identified under ORS 279C.525(1). If the successful bidder encounters a condition not referred to in the solicitation documents, not caused by the successful bidder and not discoverable by a reasonable prebid visual site inspection, and the condition requires compliance with the ordinances, rules or regulations referred to under ORS 279C.525(1), the successful bidder shall immediately give notice of the condition to the contracting agency. The successful bidder may not commence work nor incur any additional job site costs in regard to the condition encountered and described in ORS 279.525(3) without written direction from the contracting agency. ORS 279C.525.
- 21) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279C.530.
- 22) A contract for public works shall contain a provision stating the existing state prevailing rate and wage and, if applicable, the federal prevailing rate of wage required. Every contract and subcontract shall contain a provision that workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838. ORS 279C.830(1).

If this agreement is for demolition, the contract shall also contain the following conditions:

- 23) Contractor must salvage or recycle construction and demolition debris, if feasible and cost-effective. ORS 279C.510(1)

EXHIBIT C
OREGON TAX LAWS COMPLIANCE AND CERTIFICATION

A. Independent Contractor's Compliance with Tax Laws.

1. Independent Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes all the provisions described in Subsection B. 3. (i) through (iv) of this Contract.

2. Any violation of Subsection 1 of this Section A shall constitute a material breach of this Contract. Further, any violation of Independent Contractor's warranty, in Subsection B.3. of this Contract, that Independent Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle City to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Independent Contractor, in an amount equal to State's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. City shall be entitled to recover any and all damages suffered as the result of Independent Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing [replacement Services/replacement Goods/ a replacement Independent Contractor].

These remedies are cumulative to the extent the remedies are not inconsistent, and City may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

B. Independent Contractor's Representations and Warranties.

Independent Contractor represents and warrants to City that:

1. Independent Contractor (to the best of Independent Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the [date of Closing of {bids/proposals}/for/effective date of] this Contract, faithfully has complied with:

- (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- (ii) Any tax provisions imposed by a political subdivision of this state that applied to Independent Contractor, to Independent Contractor's property, operations, receipts, or income, or to Independent Contractor's performance of or compensation for any work performed by Independent Contractor;
- (iii) Any tax provisions imposed by a political subdivision of this state that applied to Independent Contractor, or to goods, services, or property, whether tangible or intangible, provided by Independent Contractor; and
- (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any [Goods/Items/Equipment/Components/Hardware/Software/Intellectual Property Rights, etc.] [delivered to/granted to] City under this Contract, and Independent Contractor's Services rendered in the performance of Independent Contractor's obligations under this Contract, shall be provided to City free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

ATTACHMENT 1

Scope of Services

1. INDEPENDENT CONTRACTOR agrees to:

- a. Provide shelter and euthanasia services. Shelter and euthanasia services shall include:
 - i. Shelter and euthanasia services for dogs impounded or found within the City limits and impounded by CITY staff. Dogs with no known owner information shall be sheltered for a minimum of three business days prior to being made available for adoption. Dogs with any owner identification information shall be sheltered for a minimum of five business days prior to being made available for adoption. Each day a dog is held at CITY facility shall be counted towards the minimum hold time.
 - ii. Quarantined shelter for dangerous or evidentiary dogs as requested by the CITY.
 - iii. Emergency euthanasia for cats as requested by an enforcement officer of CITY.
- b. Provide shelter services for stray cats impounded by CITY for quarantine purposes only.

At the end of quarantine INDEPENDENT CONTRACTOR may transfer adoptable or healthy stray cats. CITY will be responsible for the cost of euthanasia of any stray or feral cats deemed by INDEPENDENT CONTRACTOR to be unadoptable due to health or temperament.
- c. INDEPENDENT CONTRACTOR staff will assist untrained CITY personnel with the handling and impoundment of the animals during regular business hours. After hours CITY personnel may put animal(s) in the holding cage(s) and complete the police impound form supplied by INDEPENDENT CONTRACTOR. INDEPENDENT CONTRACTOR shall assist the CITY with transportation of dogs from the CITY facility to the 1st Avenue Shelter or Greenhill Humane Society, as requested by the CITY.
- d. INDEPENDENT CONTRACTOR shall assist the CITY with transportation of dogs from the CITY facility to the 1st Avenue Shelter or Greenhill Humane Society, as requested by the CITY.

2. CITY agrees to:

- a. Pay to INDEPENDENT CONTRACTOR monthly costs for requested shelter services.
- b. Assign principal responsibility for coordination between CITY and INDEPENDENT CONTRACTOR on matters of animal services to a designee, for the purposes of facilitating the flow of information between CITY and INDEPENDENT CONTRACTOR concerning shelter services, maximizing service to the satisfaction of both parties, and assisting INDEPENDENT CONTRACTOR to establish a working relationship in order to answer all formal or informal requests for information or clarification from CITY.
- c. Take the following actions to return dogs to their owners before bringing them to INDEPENDENT CONTRACTOR's shelter to minimize the number of animals having to be held by INDEPENDENT CONTRACTOR for CITY.
 - i. If owner may be determined, return dog to residence if safe to do so.
 - ii. Review for identification and vaccination.
 - iii. Inquire in neighborhood.

- iv. Check police records and lost and found.
 - v. Take any sick or injured animal to a Veterinarian prior to being housed at INDEPENDENT CONTRACTOR. Illnesses or injuries that arise after an animal has been impounded shall be the responsibility of INDEPENDENT CONTRACTOR.
- 3. **Books and Records:** The books and records of each party prepared for or used by CITY specifically for services performed under the Agreement, and such other records as may be reasonably required by either party, shall be open and available for the purpose of audit and inspection at reasonable and convenient times. INDEPENDENT CONTRACTOR will supply quarterly reports showing the numbers of animals impounded under this agreement and the disposition of those animals to the CITY designee.
- 4. **Personnel:** All personnel assigned to shelter services in accordance with this Agreement shall be employees of INDEPENDENT CONTRACTOR, and INDEPENDENT CONTRACTOR shall have full responsibility in connection with the operation of said personnel.
- 5. **Exchange of Information:** CITY and INDEPENDENT CONTRACTOR liaisons shall fully cooperate with one another in providing all information reasonably needed to perform their duties. This includes cooperation that may be necessary for CITY to assume full responsibility for dogs and other animals within its boundaries upon the termination of this agreement.
- 6. **Distribution of Dog Licenses:** CITY shall continue to issue dog licenses according to the existing City Ordinance. All revenue from the sale and renewal of dog licenses will remain with CITY. INDEPENDENT CONTRACTOR will collect license fees required by CITY upon release of dogs to owner and fees will be forwarded to CITY.
- 7. **Housing and lodging fees:** INDEPENDENT CONTRACTOR may charge lodging and shelter fees to dog owners upon return of found animals in addition to fees paid by the CITY under this contract. Those fees shall remain with INDEPENDENT CONTRACTOR.

8. Fee:

Shelter and euthanasia services shall be provided at the following rates:

July 1, 2016 – June 30, 2017	\$42,025.00
July 1, 2017 – June 30, 2018	\$42,445.25
July 1, 2018 – June 30, 2019	\$42,869.70

At the end of year, June 30, 2018, Independent Contractor and CITY will evaluate the total number of dogs sheltered and will negotiate a mutually agreeable fee for any possible additional years.

Sole Source Justification
For the Purchase of Animal Shelter Services
City of Springfield
Department of Police

Contract #1684

The determination of sole source is based on the following findings as specified in Section 2.703(2) of the Springfield Code.

- (a) That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
- (b) That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
- (c) That the goods or services are for use in a pilot or experimental project;
- (d) Other findings that support the conclusion that the goods or services are available from only one source; or,

In 2012, the City of Springfield along with the City of Eugene and Lane County put out a joint RFP for animal sheltering services. Only one response was received, from Greenhill Humane Society, and all three jurisdictions signed contracts for services with Greenhill. All three jurisdictions continue to contract with Greenhill for animal sheltering services for lost or stray dogs and cats, and for animals being held for evidentiary causes.

Other animal service providers in central Lane County, including Willamette Animal Guild (WAG), Emergency Vet Hospital (EVH), and West Coast Dog Rescue, provide a variety of shelter, emergency care, low cost spay and neuter services, or adoption services, but none are positioned to provide the comprehensive animal intake, shelter, evidentiary holding, and return-to-owner services required by a public entity charged with enforcement of state and local laws and animal regulation ordinances.

City of Springfield staff and Greenhill Humane Society agree that the market for sheltering services has not changed significantly since 2012. Greenhill Humane Society remains as the only organization offering comprehensive animal services, including adoption, return-to-owner, safe-holding and euthanasia within central Lane County. The closest similar services providers are based in Florence, Corvallis or Roseburg. See ATTACHMENT 1 Greenhill Humane Society letter.

With the above findings staff doesn't feel that competition will be diminished by sole sourcing these services.

Sole source contracts for goods or services, or classes of goods or services, which are available from only one source but do not exceed \$100,000 must be approved by the Contracting Agent. Sole source contracts for goods or services, or classes of goods or services, which are available from only one source which exceed \$100,000 must be approved by the Local Contract Review Board.

For a sole source finding relying extensively on the need for compatibility, please be as specific as possible, including examples demonstrating why the selected sole source is the only solution or compatible source.

APPROVED:

City Manager



Dept. Director

Date



Date



City Contracts Officer

Date



City Attorney Office



Date

ATTACHMENT 1



June 14, 2016

To Whom It May Concern:

This letter is to confirm that Greenhill Humane Society offers a comprehensive service of animal sheltering for dogs, cats, and other animals; including adoption, return to owner, safe-holding, and euthanasia within central Lane County. This is the only comprehensive animal service of this kind in central Lane County. Additionally, the facilities operated by Greenhill Humane Society are the only animal sheltering facilities within central Lane County that are accessible to local municipalities 24/7, and the public (for adoption or reclaim of stray animals) five days a week during normal hours of operation.

The closest similar services exist in Florence, Roseburg, or Corvallis.

If you desire additional information, don't hesitate to contact me at (541) 689-1503 ext 113 at any time or email director@green-hill.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cary Lieberman'.

Cary Lieberman
Executive Director

Greenhill Humane Society - 88530 Green Hill Rd. Eugene, OR 97402 (541) 689-1503
1st Avenue Shelter - 3970 W. 1st Avenue Eugene, OR 97402 (541) 844-1777